IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

Crl.MC.No. 742 of 2004

CRIME NO.255/2002 of PALAKKAD TOWN NORTH POLICE STATION

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PETITIONERS/ACCUSED:

1. VINOD, S/O. MANI, AGED 20, THESSERILAKSHAM VEEDU, PERAMBRA, THRISSUR.

2. RUPESH, S/O. HARIDAS, AGED 30, CHAKKAM MATTIL, EDAMUTTOM, THRISSUR.

3. CHANDRAN, S/O. KESAVAN NAIR, AGED 45, CHUNGAM VEEDU, THENKURUSSY.

4. MURUGAN, S/O. MUTHU SWAMY, AGED 22, HOUSE NO.16/26, EROAD, C.B.E.

5. BALAN, S/O. KUTTAPPAN, AGED 28, AZHAKATHU VEEDU, KODAKARA, THRISSUR.

6. RAJESH, S/O. MANI, AGED 25, THATTANPARAMBIL VEEDU, KODAKARA, THRISSUR.

7. SREENATH, S/O. GOPINATH, AGED 20, ARAKKAL VEEDU, PIYAMPILLOOR, KODUNGALLOOR.

8. BABURAJ, S/O. CHATHUNNY, AGED 40, CHAKKAMMADIL VEEDU, CHANDRAPATHY, THRISSUR.

BY ADV. SRI.P.GOPINATH
SRI.C.S.SUNIL

RESPONDENT/COMPLAINANT:

STATE OF KERALA REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P.RAVINDRA BABU

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 03/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.P. Balachandran, J.

Crl.M.C.No. 742 of 2004

ORDER

The petitioners are accused in Crime No.255/02 of Palakkad Town North Police Station. The prayer in this Crl.M.C. is to quash Annexure 5 final report submitted in Crime No.255/02 aforesaid for offences under Sections 143, 147, 148 and 427 IPC read with Section 149 thereof and under Section 3 (2)(e) of the Prevention of Damage to Public Property Act, 1984.

2. The allegation against the petitioners is that during the night on 11.9.2002, while they were doing cable work for the Reliance, have caused damage to the cables that had been laid by the BSNL and thereby disrupted several telephone connections given by the BSNL causing a loss of Rs.87,000/- to the BSNL.

3. It is worthy to note that the petitioners were all labourers working under the contractor, one Mr.Haridas, who had taken contract work of

cable laying under the Reliance Engineering Associates (P) Ltd. Prosecutor submits that whatever loss is caused has been reimbursed by the Reliance Company to the BSNL.

4. The petitioners have produced Annexure 7, copy of the Demand Draft and Annexure 8 receipt issued by the Assistant General Manager of the BSNL, Palakkad for receipt of Annexure 7 Demand Draft for Rs.6,24,776/-. The prosecutor submits that the investigation in the case is, however, over and final report is filed and the final report has been registered on the file of the Chief Judicial Magistrate's Court, Palakkad as C.C.No. 5/03. It is also worthy to note that the prosecution has strangely charge sheeted the accused for offences under Sections 143, 147 and 148 IPC as well along with Section 427 IPC read with Section 149 thereof. No sensible person would have charge sheeted the case of this nature invoking Sections 143, 147, 148 and 149 IPC.

Further, the charge against the labourers, who were engaged for cable laying work by the contractor under the Reliance Company, has also to be stated to have been registered either on account of ignorance or on account of mala fides. For all the above reasons Annexure 5 final report submitted by the Sub Inspector of Police, Palakkad Town North Police Station against the petitioners for offences under Sections 143, 147, 148 and 427 IPC read with Section 149 thereof and under Section 3(1)(e) of the Prevention of Damage to Public Property Act, 1984 deserves to be condemned and quashed.

I do so allowing this Crl.M.C.

3rd August, 2007 (K.P.Balachandran, Judge)

tkv